

REMARKS

In the Office action, claims 2-8 and 10-22 are pending. Reconsideration and further examination are respectfully requested.

Claims 21, 2-4, 8, 17 and 18 were rejected under 35 U.S.C. §102(b) over U.S. Patent Publication 2001/0004676 (Ouchi). Claim 5 was rejected under 35 U.S.C. §103(a) over Ouchi in view of U.S. Patent Number 6,102,887 (Altman). Claims 6 and 7 were rejected under 35 U.S.C. §103(a) over Ouchi in view of U.S. Patent Number 5,312,361 (Zadini). Claims 22, 10-13, 16, 19 and 20 were rejected under 35 U.S.C. §103(a) over Altman in view of U.S. Patent Number 6,575,931 (Ponzi). Claims 14 and 15 were rejected under 35 U.S.C. §103(a) over Altman in view of Ponzi and further in view of Zadini. Reconsideration and withdrawal of the rejections are respectfully requested.

Independent Claim 17, as currently amended, recites a medical device for taking a biopsy of material. The medical device includes a catheter having a catheter lumen with a proximal end and a distal end, a needle, a sheath having a sheath lumen through which the catheter is selectively moved, and a driver for selectively moving the needle with one or more of a predefined force, a predefined acceleration and a predefined velocity to penetrate the material. The needle has a solid pointed end for insertion into a body material, an internal passage, and a port in fluid communication with the internal passage for receiving biopsy material. The needle is for selectively moving to (a) extend from the distal end of the catheter lumen to a first position wherein the pointed end and port are inserted into the body material to take the biopsy, and (b) retract to a second position wherein at least the port is positioned within the catheter lumen.

Independent claim 19, as currently amended, recites a medical device for injecting a fluid into a body material. The medical device includes a catheter having a catheter lumen with a proximal end and a distal end, a needle having a side wall, a solid tip, an internal passage, and a port in fluid communication with the internal passage formed in the side wall, the needle for selectively moving (a) to extend from the distal end of the catheter lumen to a first position to inject the fluid into the body material through the port in the side wall, and (b) retract to a second position within the catheter lumen, a sheath having a sheath lumen through which the catheter is selectively moved, and a driver for selectively moving the needle with one or more of a predefined force, a predefined acceleration and a predefined velocity to penetrate the material.

Independent claim 21, as currently amended, recites a medical device including a catheter for taking a biopsy of body tissue. The medical device includes a catheter lumen and a needle having an outer surface, a solid pointed end for insertion into body tissue, an internal passage, and a first port in fluid communication with the internal passage open to the outer surface, the needle movable from a first position to a second position, the first port being positioned in the catheter lumen when the needle is in the first position and being positioned outside of the catheter lumen when the needle is in the second position, wherein when the catheter is used the pointed end and first port are inserted into the body tissue when the needle is moved into the second position in order to collect biopsy material from the body tissue.

Independent claim 22, as currently amended, recites a medical device for injecting a fluid into a material. The medical device includes a catheter having a catheter lumen, and a needle having an outer sidewall, a solid pointed end for insertion into body tissue, a first port open to the outer side wall, and an internal passage in communication with the port part, wherein the pointed

end and port are inserted into the body tissue and fluid is injected into the body tissue through the port.

Each of independent claims 17, 19, 21 and 22 recite a needle having a solid tip, an internal passage, and a port in fluid communication with the internal passage.

The cited art is not seen to disclose or suggest the features of independent claims 17, 19, 21 and 22, and in particular, are not seen to disclose or suggest at least the feature of a solid tip, an internal passage, and a port in communication with the internal passage.

Altman relates to a catheter drug delivery system and method for use. Altman is seen to teach the use of a needle with an internal passage, but as conceded by the Office Action, Altman does not teach a port in the sidewall of the needle. Furthermore, Altman is not seen to teach a needle with a solid tip, but rather a needle with a hole in the tip.

Ponzi relates to a catheter with injection needle. Ponzi is seen to teach a needle that may have ports in the sidewall, but does not teach a needle with a solid tip. Rather, Ponzi is seen to have a needle with a hole in the tip.

Ouchi relates to a manipulating section for endoscopic treatment instrument. Ponzi is seen to teach a needle that has a solid tip. However, Ouchi's needle is does not have an internal passage. Rather, Ouchi's teaches the use of a needle 10, followed by a recess 30 in communication with an aspiration channel 13. See Ouchi Figure 2. As such, Ouchi does not teach a needle with an internal passage. Furthermore, nothing in Ouchi is seen to suggest other types of needles (such as those shown in Ponzi or Altman) may be used with Ouchi's device.

The remaining art applied against the claims, namely Zadini, is not seen to supply what is missing from Ouchi, Ponzi, and Altman. As such, based on the foregoing amendments and remarks, independent claims 17, 19, 21 and 22 are believed to be allowable.

The remaining claims in the application are each dependent from one of the
aforementioned independent claims and are also believed to be allowable.

CONCLUSION

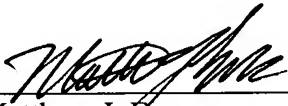
In view of the foregoing, applicant respectfully submits that the application is in
condition for allowance. The Examiner is invited to telephone the undersigned at the telephone
number listed below if it would in any way advance prosecution of this case.

By making the amendments herein, applicant does not concede to a narrower claim scope
than originally sought and reserves the right to prosecute different and/or broader claims in any
related application.

Applicant hereby petitions for any extension of time which may be required to maintain
the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to
be charged to Deposit Account No. 19-3878.

Respectfully submitted,

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